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HOUSE BILL NO. 252

Offered January 10, 1996

A *BILL to amend and reenact §§ 16.1-248.1, 16.1-249, 16.1-284, 16.1-284.1, 16.1-285, 16.1-290, 19.2-311, 66-13 and 66-24 of the Code of Virginia and §§ 16.1-255, 16.1-256, 16.1-260, 16.1-263, 16.1-277.1, 16.1-278.8, and 16.1-293 of the Code of Virginia, as they are currently effective and as they may become effective, and to repeal § 16.1-285.1 of the Code of Virginia, relating to disposition of juvenile cases; boot camps.*

Patrons—Albo, Croshaw, McDonnell and Mims; Senator: Stolle

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That §§ 16.1-248.1, 16.1-249, 16.1-284, 16.1-284.1, 16.1-285, 16.1-290, 19.2-311, 66-13 and 66-24 of the Code of Virginia and §§ 16.1-255, 16.1-256, 16.1-260, 16.1-263, 16.1-277.1, 16.1-278.8, and 16.1-293 of the Code of Virginia, as they are currently effective and as they may become effective, are amended and reenacted as follows:

§ 16.1-248.1. Criteria for detention or shelter care.

A. A ~~child~~ *juvenile* taken into custody whose case is considered by a judge, intake officer or magistrate pursuant to § 16.1-247 shall immediately be released, upon the ascertainment of the necessary facts, to the care, custody and control of such ~~child's juvenile's~~ parent, guardian, custodian or other suitable person able and willing to provide supervision and care for such ~~child juvenile~~, either on bail or recognizance pursuant to Chapter 9 (§ 19.2-119 et seq.) of Title 19.2 or under such conditions as may be imposed or otherwise. However, a ~~child juvenile~~ may be detained in a secure facility, pursuant to a detention order or warrant, only upon a finding by the judge, intake officer, or magistrate, that there is probable cause to believe that the ~~child juvenile~~ committed the act alleged, and that at least one of the following conditions is met:

1. The ~~child juvenile~~ is alleged to have committed an act which would be a felony or Class 1 misdemeanor if committed by an adult, and there is clear and convincing evidence that:

a. ~~The~~ *Considering the seriousness of the current offense or offenses and other pending charges, the seriousness of prior adjudicated offenses, the legal status of the juvenile and any aggravating and mitigating circumstances, the release of the child juvenile constitutes an unreasonable danger to the person or property of others;*

b. The release of the ~~child juvenile~~ would present a clear and substantial threat of serious harm to such ~~child's juvenile's~~ life or health; or

c. The ~~child juvenile~~ has threatened to abscond from the court's jurisdiction during the pendency of the instant proceedings or has a record of willful failure to appear at a court hearing within the immediately preceding twelve months.

2. The ~~child juvenile~~ has absconded from a detention home or facility where he has been directed to remain by the lawful order of a judge or intake officer.

3. The ~~child juvenile~~ is a fugitive from a jurisdiction outside the Commonwealth and subject to a verified petition or warrant, in which case such child may be detained for a period not to exceed that provided for in § 16.1-323 of this chapter while arrangements are made to return the child to the lawful custody of a parent, guardian or other authority in another state.

4. The ~~child juvenile~~ has failed to appear in court after having been duly served with a summons in any case in which it is alleged that the child has committed a delinquent act, is in need of services or is in need of supervision; however, a child alleged to be in need of services or in need of supervision may be detained for good cause pursuant to this subsection only until the next day upon which the court sits within the county or city in which the charge against the child is pending, and under no circumstances longer than seventy-two hours from the time he or she was taken into custody.

B. Any ~~child juvenile~~ not meeting the criteria for placement in a secure facility shall be released to a parent, guardian or other person willing and able to provide supervision and care under such conditions as the judge, intake officer or magistrate may impose. However, a child may be placed in shelter care if:

1. The ~~child juvenile~~ is eligible for placement in a secure facility;

2. The ~~child juvenile~~ has failed to adhere to the directions of the court, intake officer or magistrate while on conditional release;

3. The ~~child's juvenile's~~ parent, guardian or other person able to provide supervision cannot be reached within a reasonable time;

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4. The ~~child~~ juvenile does not consent to return home;

5. Neither the ~~child's~~ juvenile's parent or guardian nor any other person able to provide proper supervision can arrive to assume custody within a reasonable time; or

6. The ~~child's~~ juvenile's parent or guardian refuses to permit the child to return home and no relative or other person willing and able to provide proper supervision and care can be located within a reasonable time.

C. The criteria for continuing the ~~child~~ juvenile in detention or shelter care as set forth in this section shall govern the decisions of all persons involved in determining whether the continued detention or shelter care is warranted pending court disposition. Such criteria shall be supported by clear and convincing evidence in support of the decision not to release the ~~child~~ juvenile.

D. Nothing in this section shall be construed to deprive the court of its power to punish a ~~child~~ juvenile summarily for contempt for acts set forth in § 18.2-456, other than acts of disobedience of the court's dispositional order which are committed outside the presence of the court.

E. A detention order may be issued pursuant to subdivision 2 of subsection A by the committing court or by the court in the jurisdiction from which the ~~child~~ juvenile fled or where he was taken into custody.

§ 16.1-249. Places of confinement for juveniles.

A. If it is ordered that a juvenile remain in detention or shelter care pursuant to § 16.1-248.1, such juvenile may be detained, pending a court hearing, in the following places:

1. An approved foster home or a home otherwise authorized by law to provide such care;

2. A facility operated by a licensed child welfare agency;

3. If a juvenile is alleged to be delinquent, in a detention home or group home approved by the Department;

4. Any other suitable place designated by the court and approved by the Department.

B. No juvenile shall be detained or confined in any jail or other facility for the detention of adult offenders or persons charged with crime except as provided in subsection D, E, F or G of this section.

C. The official in charge of a jail or other facility for the detention of adult offenders or persons charged with crime shall inform the court immediately when a juvenile who is or appears to be under the age of eighteen years is received at the facility, and shall deliver him to the court upon request, or transfer him to a detention facility designated by the court.

D. When a case is transferred to the circuit court in accordance with the provisions of § 16.1-269.1 and an order is entered by the circuit court in accordance with § 16.1-269.6, or in accordance with the provisions of § 16.1-270 where the juvenile has waived the jurisdiction of the district court, the juvenile, if in confinement, may be transferred to a jail or other facility for the detention of adults and need no longer be entirely separate and removed from adults.

E. If, in the judgment of the custodian, a juvenile has demonstrated that he is a threat to the security or safety of the other juveniles detained or the staff of the home or facility, the judge shall determine whether such juvenile should be transferred to another juvenile facility or, if the ~~child~~ juvenile is fourteen years of age or older, a jail or other facility for the detention of adults; provided, that (i) the detention is in a room or ward entirely separate and removed from adults, (ii) adequate supervision is provided, and (iii) the facility is approved by the State Board of Corrections for detention of juveniles.

F. If, in the judgment of the custodian, it has been demonstrated that the presence of a juvenile in a facility creates a threat to the security or safety of the other juveniles detained or the staff of the home or facility, the custodian may transfer the juvenile to another juvenile facility, or, if the ~~child~~ juvenile is fourteen years of age or older, a jail or other facility for the detention of adults pursuant to the limitations of subdivisions E (i), (ii) and (iii) for a period not to exceed six hours.

G. If a juvenile fourteen years of age or older is charged with an offense which, if committed by an adult, would be a felony or Class 1 misdemeanor, and the judge or intake officer determines that secure detention is needed for the safety of the juvenile or the community, such juvenile may be detained for a period no longer than six hours in a temporary lock-up room or ward for juveniles while arrangements are completed to transfer the juvenile to a juvenile facility. Such room or ward may be located in a building which also contains a jail or other facility for the detention of adults, provided (i) such room or ward is totally separate and removed from adults or juveniles transferred to the circuit court pursuant to Article 7 (§ 16.1-269.1 et seq.) of this chapter, (ii) constant supervision is provided, and (iii) the facility is approved by the State Board of Corrections for the detention of juveniles. The State Board of Corrections is authorized and directed to prescribe minimum standards for temporary lock-up rooms and wards based on the requirements set out in this subsection. *The Department shall assist localities or combinations of localities in establishing facilities which conform to the requirements of this subsection.*

G.1. Any juvenile who has been ordered detained in a secure detention facility pursuant to § 16.1-248.1 may be held incident to a court hearing (i) in a court holding cell for a period not to exceed six hours provided the juvenile is entirely separate and removed from detained adults or (ii) in a nonsecure area provided constant supervision is provided.

H. A judge may order the predispositional detention of persons eighteen years of age or older (i) in a juvenile facility only for a violation of the terms and conditions of release from a learning center or (ii) in an adult facility.

I. The Departments of Corrections, Youth and Family Services and Criminal Justice Services shall assist the localities or combinations thereof in implementing this section and ensuring compliance herewith.

§ 16.1-255. Limitation on issuance of detention orders for ~~children~~ juveniles.

No detention order shall be issued for any ~~child~~ juvenile except when authorized by the judge or "intake officer" of a juvenile court *or by a magistrate as provided in § 16.1-256.*

In matters involving the issuance of detention orders, each state or local court service unit shall ensure the capability of a prompt response by an intake officer who is either on duty or on call.

§ 16.1-255. (Delayed effective date) Limitation on issuance of detention orders for ~~children~~ juveniles.

No detention order shall be issued for any ~~child~~ juvenile except when authorized by the judge or "intake officer" of a family court *or by a magistrate as provided in § 16.1-256.*

In matters involving the issuance of detention orders, each state or local court service unit shall ensure the capability of a prompt response by an intake officer who is either on duty or on call.

§ 16.1-256. Limitations as to issuance of warrants for ~~children~~ juveniles.

No warrant of arrest shall be issued for any ~~child~~ juvenile by a magistrate, except as follows:

1. As provided in § 16.1-260 on appeal from a decision of an intake officer; or

2. ~~[Repealed.]~~

3. Upon a finding of probable cause to believe that the ~~child~~ juvenile is in need of services or is a delinquent, when (i) the court is not open; *or* (ii) the judge and the intake officer of the juvenile and domestic relations district court are not reasonably available ~~and (iii) the criteria for detention or shelter care set forth in § 16.1-248.1 have been satisfied.~~ For purposes of this section, the phrase "not reasonably available" shall mean that ~~neither the judge or~~ *neither the judge or* the intake officer of the juvenile and domestic relations district court ~~could not be reached after the appearance by the juvenile before a magistrate or could not arrive within one hour after he was contacted~~ *is physically present to process the case and the physical presence of either is not imminent.*

When a magistrate is authorized to issue a warrant pursuant to subdivision 2, he may also issue a detention order, if the criteria for detention or shelter care set forth in § 16.1-248.1 have been satisfied.

Warrants issued pursuant to this section shall be delivered forthwith to the juvenile court.

§ 16.1-256. (Delayed effective date) Limitations as to issuance of warrants for ~~children~~ juveniles.

No warrant of arrest shall be issued for any ~~child~~ juvenile by a magistrate, except as follows:

1. As provided in § 16.1-260 on appeal from a decision of an intake officer; or

2. ~~[Repealed.]~~

3. Upon a finding of probable cause to believe that the ~~child~~ juvenile is in need of services or is a delinquent, when (i) the court is not open; *or* (ii) the judge and the intake officer of the family court are not reasonably available ~~and (iii) the criteria for detention or shelter care set forth in § 16.1-248.1 have been satisfied.~~ For purposes of this section, the phrase "not reasonably available" ~~shall mean means that neither the judge or~~ *neither the judge or* the intake officer of the family court ~~could not be reached after the appearance by the juvenile before a magistrate or could not arrive within one hour after he was contacted~~ *is physically present to process the case and the physical presence of either is not imminent.*

When a magistrate is authorized to issue a warrant pursuant to subdivision 2, he may also issue a detention order, if the criteria for detention or shelter care set forth in § 16.1-248.1 have been satisfied.

Warrants issued pursuant to this section shall be delivered forthwith to the family court.

§ 16.1-260. Intake; petition; investigation.

A. All matters alleged to be within the jurisdiction of the court shall be commenced by the filing of a petition, except as provided in subsection F of this section and in § 16.1-259. The form and content of the petition shall be as provided in § 16.1-262. No individual shall be required to obtain support services from the Department of Social Services prior to filing a petition seeking support for a ~~child~~ juvenile. Complaints, requests and the processing of petitions to initiate a case shall be the responsibility of the intake officer. However, (i) the attorney for the Commonwealth of the city or county may file a petition on his own motion with the clerk, (ii) the Department of Social Services may file support petitions on its own motion with the clerk, and (iii) any attorney may file petitions on behalf of his client with the clerk except petitions alleging that the subject of the petition is a ~~child~~ juvenile alleged to be in need of services, in need of supervision or delinquent. Complaints alleging abuse or neglect of a ~~child~~ juvenile shall be referred initially to the local department of public welfare or social services in accordance with the provisions of Chapter 12.1 (§ 63.1-248.1 et seq.) of Title 63.1. Motions and other subsequent pleadings in a case shall be filed directly with the clerk. The intake officer or clerk with whom the petition or motion is filed shall inquire whether the petitioner is receiving ~~child~~ juvenile support services or public assistance. No individual who is receiving support services or public assistance shall

183 be denied the right to file a petition or motion to establish, modify or enforce an order for support of a
184 ~~child~~ *juvenile*. If the petitioner is seeking or receiving ~~child~~ *juvenile* support services or public
185 assistance, the clerk, upon issuance of process, shall forward a copy of the petition or motion together
186 with notice of the court date to the Division of Child Support Enforcement.

187 B. When the court service unit of any court receives a complaint alleging facts which may be
188 sufficient to invoke the jurisdiction of the court pursuant to § 16.1-241, the unit, through an intake
189 officer, may proceed informally to make such adjustment as is practicable without the filing of a petition
190 or may authorize a petition to be filed by any complainant having sufficient knowledge of the matter to
191 establish probable cause for the issuance of the petition. The intake officer shall accept and file a
192 petition in which it is alleged that (i) the custody, visitation or support of a ~~child~~ *juvenile* is the subject
193 of controversy or requires determination, (ii) a person has deserted, abandoned or failed to provide
194 support for any person in violation of law, or (iii) a ~~child~~ *juvenile* or such ~~child's~~ *juvenile's* parent,
195 guardian, legal custodian or other person standing in loco parentis is entitled to treatment, rehabilitation
196 or other services which are required by law. If any such complainant does not file a petition, the intake
197 officer may file it. In cases in which a ~~child~~ *juvenile* is alleged to be abused, neglected, in need of
198 services, in need of supervision or delinquent, if the intake officer believes that probable cause does not
199 exist, or that the authorization of a petition will not be in the best interest of the family or ~~child~~
200 *juvenile* or that the matter may be effectively dealt with by some agency other than the court, he may
201 refuse to authorize the filing of a petition.

202 C. Prior to the filing of any petition alleging that a juvenile is in need of supervision, the matter
203 shall be reviewed by an intake officer who shall determine whether the petitioner and the juvenile
204 alleged to be in need of supervision have utilized or attempted to utilize treatment and services available
205 in the community and have exhausted all appropriate nonjudicial remedies which are available to them.
206 When the intake officer determines that the parties have not attempted to utilize available treatment or
207 services or have not exhausted all appropriate nonjudicial remedies which are available, he shall refer
208 the petitioner and the child alleged to be in need of supervision to the appropriate agency, treatment
209 facility or individual to receive treatment or services, and a petition shall not be filed. Only after the
210 intake officer determines that the parties have made a reasonable effort to utilize available community
211 treatment or services, may he permit the petition to be filed.

212 D. If the intake officer refuses to authorize a petition relating to an offense that if committed by an
213 adult would be punishable as a Class 1 misdemeanor or as a felony, the complainant shall be notified in
214 writing at that time of the complainant's right to apply to a magistrate for a warrant. If a magistrate
215 determines that probable cause exists, he shall issue a warrant returnable to the juvenile and domestic
216 relations district court. The warrant shall be delivered forthwith to the juvenile court, and the intake
217 officer shall accept and file a petition founded upon the warrant. If the court is closed and the magistrate
218 finds that the criteria for detention or shelter care set forth in § 16.1-248.1 have been satisfied, the child
219 may be detained pursuant to the warrant issued in accordance with this subsection. If the intake officer
220 refuses to authorize a petition relating to a child in need of services or in need of supervision, a status
221 offense, or a misdemeanor other than Class 1, his decision is final.

222 Upon delivery to the juvenile court of a warrant issued pursuant to subdivision 3 2 of § 16.1-256, the
223 intake officer shall accept and file a petition founded upon the warrant.

224 E. The intake officer shall notify the attorney for the Commonwealth of the filing of any petition
225 which alleges facts of an offense which would be a felony if committed by an adult.

226 E1. After a petition is filed alleging that a juvenile committed an act which would be a crime if
227 committed by an adult, the intake officer shall, as soon as practicable, provide notice by telephone of
228 the filing of the petition and the nature of the offense to the superintendent of the school division in
229 which the petitioner alleges the juvenile is or should be enrolled, provided the violation involves:

230 1. The unlawful purchase, possession or use of a weapon pursuant to Article 4 (§ 18.2-279 et seq.) of
231 Chapter 7 of Title 18.2;

232 2. Homicide, pursuant to Article 1 (§ 18.2-30 et seq.) of Chapter 4 of Title 18.2;

233 3. Felonious assault and bodily wounding, pursuant to Article 4 (§ 18.2-51 et seq.) of Chapter 4 of
234 Title 18.2;

235 4. Criminal sexual assault, pursuant to Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2;

236 5. Manufacture, sale, gift, distribution or possession of Schedule I or II controlled substances,
237 pursuant to Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2;

238 6. Manufacture, sale or distribution of marijuana pursuant to Article 1 (§ 18.2-247 et seq.) of Chapter
239 7 of Title 18.2;

240 7. Arson and related crimes, pursuant to Article 1 (§ 18.2-77 et seq.) of Chapter 5 of Title 18.2; or

241 8. Burglary, pursuant to § 18.2-89.

242 Promptly after filing a petition the intake officer shall also mail notice, by first class mail, to the
243 superintendent. The failure to provide information regarding the school in which the juvenile who is the
244 subject of the petition may be enrolled shall not be grounds for refusing to file a petition.

The information provided to a division superintendent pursuant to this section may be disclosed only as provided in § 16.1-305.2.

F. The filing of a petition shall not be necessary:

1. In the case of violations of the traffic laws, including offenses involving bicycles, hitchhiking and other pedestrian offenses, game and fish laws or a violation of the ordinance of any city regulating surfing or any ordinance establishing curfew violations or animal control violations. In such cases the court may proceed on a summons issued by the officer investigating the violation in the same manner as provided by law for adults. Additionally, an officer investigating a motor vehicle accident may, at the scene of the accident or at any other location where a juvenile who is involved in such an accident may be located, proceed on a summons in lieu of filing a petition.

2. In the case of seeking consent to apply for the issuance of a work permit pursuant to subdivision H of § 16.1-241.

3. In the case of a violation of § 18.2-266 or § 29.1-738, or the commission of any other alcohol-related offense, provided the ~~child~~ *juvenile* is released to the custody of a parent or legal guardian pending the initial court date. The officer releasing a ~~child~~ *juvenile* to the custody of a parent or legal guardian shall issue a summons to the ~~child~~ *juvenile* and shall also issue a summons requiring the parent or legal guardian to appear before the court with the ~~child~~ *juvenile*. Disposition of the charge shall be in the manner provided in § 16.1-278.8 or § 16.1-278.9. If the child so charged with a violation of § 18.2-266 or § 29.1-738 refuses to provide a sample of blood or breath or samples of both blood and breath for chemical analysis pursuant to §§ 18.2-268.1 through 18.2-268.12 or § 29.1-738.2, the provisions of these sections shall be followed except that the magistrate shall authorize execution of the warrant as a summons. The summons shall be served on a parent or legal guardian and the ~~child~~ *juvenile*, and a copy of the summons shall be forwarded to the court in which the violation of § 18.2-266 or § 29.1-738 is to be tried.

4. In the case of offenses which, if committed by an adult would be punishable as Class 3 or Class 4 misdemeanor. In such cases the court may direct that an intake officer proceed as provided in § 16.1-237 on a summons issued by the officer investigating the violation in the same manner as provided by law for adults provided that notice of the summons to appear is mailed by the investigating officer within five days of the issuance of the summons to a parent or legal guardian of the juvenile.

G. Failure to comply with the procedures set forth in this section shall not divest the juvenile court of the jurisdiction granted it in § 16.1-241.

§ 16.1-260. (Delayed effective date) Intake; petition; investigation.

A. All matters alleged to be within the jurisdiction of the court shall be commenced by the filing of a petition, except as provided in subsection F of this section and in § 16.1-259. The form and content of the petition shall be as provided in § 16.1-262. No individual shall be required to obtain support services from the Department of Social Services prior to filing a petition seeking support for a ~~child~~ *juvenile*. Complaints, requests and the processing of petitions to initiate a case shall be the responsibility of the intake officer. However, (i) the attorney for the Commonwealth of the city or county may file a petition on his own motion with the clerk, (ii) the Department of Social Services may file support petitions on its own motion with the clerk, and (iii) any attorney may file petitions on behalf of his client with the clerk except petitions alleging that the subject of the petition is a child alleged to be in need of services, in need of supervision or delinquent. In addition, all cases for divorce, annulment or affirmation of marriage, separate maintenance, equitable distribution based on a foreign decree, adoption, change of name, amendment of a record of birth and judicial review of school board actions and of hearing officer decisions shall be filed directly with the clerk. Complaints alleging abuse or neglect of a ~~child~~ *juvenile* shall be referred initially to the local department of public welfare or social services in accordance with the provisions of Chapter 12.1 (§ 63.1-248.1 et seq.) of Title 63.1. Motions and other subsequent pleadings in a case shall be filed directly with the clerk. The intake officer or clerk with whom the petition or motion is filed shall inquire whether the petitioner is receiving child support services or public assistance. No individual who is receiving support services or public assistance shall be denied the right to file a petition or motion to establish, modify or enforce an order for support of a ~~child~~ *juvenile*. If the petitioner is seeking or receiving child support services or public assistance, the clerk, upon issuance of process, shall forward a copy of the petition or motion together with notice of the court date to the Division of Child Support Enforcement.

B. When the court service unit of any court receives a complaint alleging facts which may be sufficient to invoke the jurisdiction of the court pursuant to § 16.1-241, the unit, through an intake officer, may proceed informally to make such adjustment as is practicable without the filing of a petition or may authorize a petition to be filed by any complainant having sufficient knowledge of the matter to establish probable cause for the issuance of the petition. The intake officer shall accept and file a petition in which it is alleged that (i) the custody, visitation or support of a ~~child~~ *juvenile* is the subject of controversy or requires determination, (ii) a person has deserted, abandoned or failed to provide

support or separate maintenance for any person in violation of law, or (iii) a ~~child~~ *juvenile* or such ~~child's juvenile's~~ parent, guardian, legal custodian or other person standing in loco parentis is entitled to treatment, rehabilitation or other services which are required by law. If any such complainant does not file a petition, the intake officer may file it. In cases in which a ~~child~~ *juvenile* is alleged to be abused, neglected, in need of services, in need of supervision or delinquent, if the intake officer believes that probable cause does not exist, or that the authorization of a petition will not be in the best interest of the family or ~~child~~ *juvenile* or that the matter may be effectively dealt with by some agency other than the court, he may refuse to authorize the filing of a petition.

C. Prior to the filing of any petition alleging that a juvenile is in need of supervision, the matter shall be reviewed by an intake officer who shall determine whether the petitioner and the juvenile alleged to be in need of supervision have utilized or attempted to utilize treatment and services available in the community and have exhausted all appropriate nonjudicial remedies which are available to them. When the intake officer determines that the parties have not attempted to utilize available treatment or services or have not exhausted all appropriate nonjudicial remedies which are available, he shall refer the petitioner and the child alleged to be in need of supervision to the appropriate agency, treatment facility or individual to receive treatment or services, and a petition shall not be filed. Only after the intake officer determines that the parties have made a reasonable effort to utilize available community treatment or services, may he permit the petition to be filed.

D. If the intake officer refuses to authorize a petition relating to an offense which if committed by an adult would be punishable as a Class 1 misdemeanor or as a felony, the complainant shall be notified in writing at that time of the complainant's right to apply to a magistrate for a warrant. If a magistrate determines that probable cause exists, he shall issue a warrant returnable to the family court. The warrant shall be delivered forthwith to the family court, and the intake officer shall accept and file a petition founded upon the warrant. If the court is closed and the magistrate finds that the criteria for detention or shelter care set forth in § 16.1-248.1 have been satisfied, the ~~child~~ *juvenile* may be detained pursuant to the warrant issued in accordance with this subsection. If the intake officer refuses to authorize a petition relating to a child in need of services or in need of supervision, a status offense, or a misdemeanor other than Class 1, his decision is final.

Upon delivery to the family court of a warrant issued pursuant to subdivision 3 2 of § 16.1-256, the intake officer shall accept and file a petition founded upon the warrant.

E. The intake officer shall notify the attorney for the Commonwealth of the filing of any petition which alleges facts of an offense which would be a felony if committed by an adult.

E1. After a petition is filed alleging that a juvenile committed an act which would be a crime if committed by an adult, the intake officer shall, as soon as practicable, provide notice by telephone of the filing of the petition and the nature of the offense to the superintendent of the school division in which the petitioner alleges the juvenile is or should be enrolled, provided the violation involves:

1. The unlawful purchase, possession or use of a weapon pursuant to Article 4 (§ 18.2-279 et seq.) of Chapter 7 of Title 18.2;

2. Homicide, pursuant to Article 1 (§ 18.2-30 et seq.) of Chapter 4 of Title 18.2;

3. Felonious assault and bodily wounding, pursuant to Article 4 (§ 18.2-51 et seq.) of Chapter 4 of Title 18.2;

4. Criminal sexual assault, pursuant to Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2;

5. Manufacture, sale, gift, distribution or possession of Schedule I or II controlled substances, pursuant to Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2;

6. Manufacture, sale or distribution of marijuana pursuant to Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2;

7. Arson and related crimes, pursuant to Article 1 (§ 18.2-77 et seq.) of Chapter 5 of Title 18.2; or

8. Burglary, pursuant to § 18.2-89.

Promptly after filing a petition the intake officer shall also mail notice, by first class mail, to the superintendent. The failure to provide information regarding the school in which the juvenile who is the subject of the petition may be enrolled shall not be grounds for refusing to file a petition.

The information provided to a division superintendent pursuant to this section may be disclosed only as provided in § 16.1-305.2.

F. The filing of a petition shall not be necessary:

1. In the case of violations of the traffic laws, including offenses involving bicycles, hitchhiking and other pedestrian offenses, game and fish laws or a violation of the ordinance of any city regulating surfing or any ordinance establishing curfew violations or animal control violations. In such cases the court may proceed on a summons issued by the officer investigating the violation in the same manner as provided by law for adults. Additionally, an officer investigating a motor vehicle accident may, at the scene of the accident or at any other location where a juvenile who is involved in such an accident may be located, proceed on a summons in lieu of filing a petition.

2. In the case of seeking consent to apply for the issuance of a work permit pursuant to subdivision

H of § 16.1-241.

3. In the case of a violation of § 18.2-266 or § 29.1-738, or the commission of any other alcohol-related offense, provided the ~~child~~ juvenile is released to the custody of a parent or legal guardian pending the initial court date. The officer releasing a ~~child~~ juvenile to the custody of a parent or legal guardian shall issue a summons to the ~~child~~ juvenile and shall also issue a summons requiring the parent or legal guardian to appear before the court with the ~~child~~ juvenile. Disposition of the charge shall be in the manner provided in § 16.1-278.8 or § 16.1-278.9. If the ~~child~~ juvenile so charged with a violation of § 18.2-266 or § 29.1-738 refuses to provide a sample of blood or breath or samples of both blood and breath for chemical analysis pursuant to §§ 18.2-268.1 through 18.2-268.12 or § 29.1-738.2, the provisions of these sections shall be followed except that the magistrate shall authorize execution of the warrant as a summons. The summons shall be served on a parent or legal guardian and the ~~child~~ juvenile, and a copy of the summons shall be forwarded to the court in which the violation of § 18.2-266 or § 29.1-738 is to be tried.

4. In cases of divorce, annulment or affirmation of marriage, separate maintenance, equitable distribution based on a foreign decree, and judicial review of school board actions and of hearing officer decisions.

5. In the case of offenses which, if committed by an adult would be punishable as Class 3 or Class 4 misdemeanor. In such cases the court may direct that an intake officer proceed as provided in § 16.1-237 on a summons issued by the officer investigating the violation in the same manner as provided by law for adults provided that notice of the summons to appear is mailed by the investigating officer within five days of the issuance of the summons to a parent or legal guardian of the juvenile.

G. Failure to comply with the procedures set forth in this section shall not divest the family court of the jurisdiction granted it in § 16.1-241.

§ 16.1-263. Summonses.

A. After a petition has been filed, the court shall direct the issuance of summonses, one directed to the ~~child~~ juvenile, if the ~~child~~ juvenile is twelve or more years of age, and another to the parents, guardian, legal custodian or other person standing in loco parentis, and such other persons as appear to the court to be proper or necessary parties to the proceedings. The summons shall require them to appear personally before the court at the time fixed to answer or testify as to the allegations of the petition. Where the custodian is summoned and such person is not the parent of the ~~child~~ juvenile in question, the parent shall also be served with a summons. The court may direct that other proper or necessary parties to the proceedings be notified of the pendency of the case, the charge and the time and place for the hearing.

B. The summons shall advise the parties of their right to counsel as provided in § 16.1-266. A copy of the petition shall accompany each summons for the initial proceedings. *The summons shall include notice that in the event that the juvenile is committed to the Department or to a secure local facility, the parent or other person legally obligated to care for and support the juvenile may be required to pay a reasonable sum for maintenance and treatment of the juvenile pursuant to § 16.1-290.* Notice of subsequent proceedings shall be provided to all parties in interest. In all cases where a party is represented by counsel and counsel has been provided with a copy of the petition and due notice as to time, date and place of the hearing, such action shall be deemed due notice to such party, unless such counsel has notified the court that he no longer represents such party.

C. The judge may endorse upon the summons an order directing the parents, guardian or other custodian having the custody or control of the ~~child~~ juvenile to bring the ~~child~~ juvenile to the hearing.

D. A party, other than the ~~child~~ juvenile, may waive service of summons by written stipulation or by voluntary appearance at the hearing.

E. No such summons or notification shall be required if the judge shall certify on the record that the identity of a parent or guardian is not reasonably ascertainable. An affidavit of the mother that the identity of the father is not reasonably ascertainable shall be sufficient evidence of this fact, provided there is no other evidence before the court which would refute such an affidavit.

§ 16.1-263. (Delayed effective date) Process.

A. After a petition has been filed, the court shall direct the issuance of summonses, one directed to the ~~child~~ juvenile, if the ~~child~~ juvenile is twelve or more years of age, and another to the parents, guardian, legal custodian or other person standing in loco parentis, and such other persons as appear to the court to be proper or necessary parties to the proceedings. The summons shall require them to appear personally before the court at the time fixed to answer or testify as to the allegations of the petition. *The summons shall include notice that in the event that the juvenile is committed to the Department or to a secure local facility, the parent or other person legally obligated to care for and support the juvenile may be required to pay a reasonable sum for maintenance and treatment of the juvenile pursuant to § 16.1-290.* Where the custodian is summoned and such person is not the parent of the ~~child~~ juvenile in question, the parent shall also be served with a summons. The court may direct that

other proper or necessary parties to the proceedings be notified of the pendency of the case, the charge and the time and place for the hearing.

B. The summons shall advise the parties of their right to counsel as provided in § 16.1-266. A copy of the petition shall accompany each summons for the initial proceedings. Notice of subsequent proceedings shall be provided to all parties in interest. In all cases where a party is represented by counsel and counsel has been provided with a copy of the petition and due notice as to time, date and place of the hearing, such action shall be deemed due notice to such party, unless such counsel has notified the court that he no longer represents such party.

C. The judge may endorse upon the summons an order directing the parents, guardian or other custodian having the custody or control of the ~~child~~ *juvenile* to bring the ~~child~~ *juvenile* to the hearing.

D. A party, other than the ~~child~~ *juvenile*, may waive service of summons by written stipulation or by voluntary appearance at the hearing.

E. No such summons or notification shall be required if the judge shall certify on the record that the identity of a parent or guardian is not reasonably ascertainable. An affidavit of the mother that the identity of the father is not reasonably ascertainable shall be sufficient evidence of this fact, provided there is no other evidence before the court which would refute such an affidavit.

F. For all cases of divorce, annulment or affirmation of marriage, separate maintenance, equitable distribution based on a foreign decree, adoption, change of name, amendment of a record of birth, and judicial review of school board actions and of hearing officer decisions, process shall be governed by the Rules of the Supreme Court or statute, as appropriate.

§ 16.1-277.1. Time limitation.

A. When a ~~child~~ *juvenile* is held continuously in secure detention, he shall be released from confinement if there is no adjudicatory or transfer hearing conducted by the court for the matters upon which he was detained within twenty-one days from the date he was first detained.

B. If a ~~child~~ *juvenile* is not held in secure detention or is released from same after having been confined, an adjudicatory or transfer hearing on the matters charged in the petition or petitions issued against him shall be conducted within 120 days from the date the petition or petitions are filed.

C. When a ~~child~~ *juvenile* is held in secure detention after the completion of his adjudicatory hearing or is detained when the juvenile court has retained jurisdiction as a result of a transfer hearing, he shall be released from such detention if the disposition hearing is not completed within thirty days from the date of the adjudicatory or transfer hearing.

D. The time limitations provided for in this section may be extended by the court for a reasonable period of time based upon good cause shown, provided that the basis for such extension is recorded in writing and filed among the papers of the proceedings. *Good cause shall include, but not be limited to, reasonable delay in procurement and filing of certificates of analysis or obtaining any other necessary scientific testing, and reasonable delay caused by an inability to secure the attendance of witnesses despite reasonable efforts to obtain the witnesses' attendance by subpoena.*

§ 16.1-277.1. (Delayed effective date) Time limitation.

A. When a ~~child~~ *juvenile* is held continuously in secure detention, he shall be released from confinement if there is no adjudicatory or transfer hearing conducted by the court for the matters upon which he was detained within twenty-one days from the date he was first detained.

B. If a ~~child~~ *juvenile* is not held in secure detention or is released from same after having been confined, an adjudicatory or transfer hearing on the matters charged in the petition or petitions issued against him shall be conducted within 120 days from the date the petition or petitions are filed.

C. When a ~~child~~ *juvenile* is held in secure detention after the completion of his adjudicatory hearing or is detained when the family court has retained jurisdiction as a result of a transfer hearing, he shall be released from such detention if the disposition hearing is not completed within thirty days from the date of the adjudicatory or transfer hearing.

D. The time limitations provided for in this section may be extended by the court for a reasonable period of time based upon good cause shown, provided that the basis for such extension is recorded in writing and filed among the papers of the proceedings. *Good cause shall include, but not be limited to, reasonable delay in procurement and filing of certificates of analysis or obtaining any other necessary scientific testing, and reasonable delay caused by an inability to secure the attendance of witnesses despite reasonable efforts to obtain the witnesses' attendance by subpoena.*

§ 16.1-278.8. Delinquent juveniles.

If a juvenile is found to be delinquent, except where such finding involves a refusal to take a blood or breath test in violation of § 18.2-268.2 or a similar ordinance, the juvenile court or the circuit court may make any of the following orders of disposition for his supervision, care and rehabilitation:

1. Enter an order pursuant to the provisions of § 16.1-278;

2. Permit the juvenile to remain with his parent, subject to such conditions and limitations as the court may order with respect to the juvenile and his parent;

3. Order the parent of a juvenile living with him to participate in such programs, cooperate in such

treatment or be subject to such conditions and limitations as the court may order and as are designed for the rehabilitation of the juvenile and his parent;

4. Defer disposition for a period of time not to exceed twelve months, after which time the charge may be dismissed by the judge if the juvenile exhibits good behavior during the period for which disposition is deferred;

4a. *Defer disposition and place the juvenile in the temporary custody of the Department to attend a Boot Camp Program established pursuant to § 66-13 provided the juvenile (i) is otherwise eligible for commitment to the Department, (ii) has not previously been adjudicated delinquent or found guilty of an offense which, if committed by an adult, would be an act of violence as defined in § 19.2-297.1 and (iii) has not previously been committed to the Department or attended a Boot Camp Program. Upon the juvenile's withdrawal, removal or refusal to comply with the terms and conditions of participation in the program, he shall be brought before the court for a hearing at which the court may impose any other disposition as authorized by this section which could have been imposed at the time the juvenile was placed in the custody of the Department;*

5. Without entering a judgment of guilty and with the consent of the juvenile and his attorney, defer disposition of the delinquency charge for a period not to exceed twelve months and place the juvenile on probation under such conditions and limitations as the court may prescribe. Upon fulfillment of the terms and conditions, the court shall discharge the juvenile and dismiss the proceedings against him. Discharge and dismissal under these provisions shall be without adjudication of guilt;

6. Order the parent of a juvenile with whom the juvenile does not reside to participate in such programs, cooperate in such treatment or be subject to such conditions and limitations as the court may order and as are designed for the rehabilitation of the juvenile where the court determines this participation to be in the best interest of the juvenile and other parties concerned and where the court determines it reasonable to expect the parent to be able to comply with such order;

7. Place the juvenile on probation under such conditions and limitations as the court may prescribe, *which may include, but are not limited to, compliance with any alternative education plan prepared pursuant to § 22.1-257;*

8. Impose a fine not to exceed \$500 upon such juvenile;

9. Suspend the motor vehicle and driver's license of such juvenile or impose a curfew on the juvenile as to the hours during which he may operate a motor vehicle. Any juvenile whose driver's license is suspended may be referred for an assessment and subsequent referral to appropriate services, upon such terms and conditions as the court may order. The court, in its discretion and upon a demonstration of hardship, may authorize the use of a restricted permit to operate a motor vehicle by any juvenile who enters such program for any of the purposes set forth in subsection E of § 18.2-271.1 or for travel to and from school. The restricted permit shall be issued in accordance with the provisions of such subsection. However, only an abstract of the court order which identifies the juvenile and the conditions under which the restricted license is to be issued shall be sent to the Department of Motor Vehicles.

If a curfew is imposed, the juvenile shall surrender his driver's license, which shall be held in the physical custody of the court during any period of curfew restriction. The court shall send an abstract of any order issued under the provisions of this section to the Department of Motor Vehicles, which shall preserve a record thereof. Notwithstanding the provisions of Article 12 (§ 16.1-299 et seq.) of this chapter or the provisions of Title 46.2, this record shall be available only to all law-enforcement officers, attorneys for the Commonwealth and courts. A copy of the court order, upon which shall be noted all curfew restrictions, shall be provided to the juvenile and shall contain such information regarding the juvenile as is reasonably necessary to identify him. The juvenile may operate a motor vehicle under the court order in accordance with its terms.

Any juvenile who operates a motor vehicle in violation of any restrictions imposed pursuant to this section shall be guilty of a violation of § 46.2-301.

The Department of Motor Vehicles shall refuse to issue a driver's license to any juvenile denied a driver's license until such time as is stipulated in the court order or until notification by the court of withdrawal of the order imposing the curfew;

10. Require the juvenile to make restitution or reparation to the aggrieved party or parties for actual damages or loss caused by the offense for which the juvenile was found to be delinquent;

11. Require the juvenile to participate in a public service project under such conditions as the court prescribes;

12. In case of traffic violations, impose only those penalties which are authorized to be imposed on adults for such violations. However, for those violations punishable by confinement if committed by an adult, confinement shall be imposed only as authorized by this title;

13. Transfer legal custody to any of the following:

a. A relative or other individual who, after study, is found by the court to be qualified to receive and care for the juvenile;

552 b. A child welfare agency, private organization or facility which is licensed or otherwise authorized
553 by law to receive and provide care for such juvenile. The court shall not transfer legal custody of a
554 delinquent juvenile to an agency, organization or facility outside of the Commonwealth without the
555 approval of the Director; or

556 c. The local board of public welfare or social services of the county or city in which the court has
557 jurisdiction or, at the discretion of the court, to the local board of the county or city in which the
558 juvenile has residence if other than the county or city in which the court has jurisdiction. The board
559 shall accept the juvenile for care and custody, provided that it has been given reasonable notice of the
560 pendency of the case and an opportunity to be heard. However, in an emergency in the county or city in
561 which the court has jurisdiction, such local board may be required to temporarily accept a juvenile for a
562 period not to exceed fourteen days without prior notice or an opportunity to be heard if the judge
563 entering the placement order describes the emergency and the need for such temporary placement in the
564 order. Nothing in this subdivision shall prohibit the commitment of a juvenile to any local board of
565 public welfare or social services in the Commonwealth when such local board consents to the
566 commitment. The board to which the juvenile is committed shall have the final authority to determine
567 the appropriate placement for the juvenile. Any order authorizing removal from the home and
568 transferring legal custody of a juvenile to a local board of public welfare or social services as provided
569 in this subdivision shall be entered only upon a finding by the court that reasonable efforts have been
570 made to prevent removal and that continued placement in the home would be contrary to the welfare of
571 the juvenile, and the order shall so state;

572 14. Commit the juvenile to the Department of Youth and Family Services, but only if he is older
573 than ten years of age and the current offense is (i) an offense which would be a felony if committed by
574 an adult or (ii) an offense which would be a Class 1 misdemeanor if committed by an adult and the
575 juvenile has previously been found to be delinquent based on an offense which would be either a felony
576 or Class 1 misdemeanor if committed by an adult;

577 *Prior to committing any juvenile pursuant to this subdivision, the court shall consider the nature of*
578 *the present offense and the impact on the victim, the nature of the juvenile's prior delinquency record*
579 *and record of other contacts with the court, the nature of past treatment efforts and the juvenile's*
580 *response to them, and any aggravating or mitigating circumstances.*

581 *In ordering commitment, the court may specify a minimum period of commitment not to exceed the*
582 *juvenile's twenty-first birthday, and the juvenile shall not be released at a time earlier than that*
583 *specified by the court, unless a petition for early release is approved by the committing court based*
584 *upon good cause shown. The court which commits the juvenile to the Department for such minimum*
585 *period shall have continuing jurisdiction over the juvenile for the duration of that minimum period of*
586 *commitment.*

587 *In the event the court does not specify a minimum period of commitment, or when any minimum*
588 *period is completed, the commitment shall be for an indeterminate period, and the Department shall*
589 *have the authority to discharge any juvenile from its custody in accordance with policies and procedures*
590 *established by the State Board and with other provisions of law. In no event shall any committed*
591 *juvenile be held or detained after he has attained the age of twenty one years;*

592 15. Impose the penalty authorized by § 16.1-284;

593 16. Impose the penalty authorized by § 16.1-284.1; or

594 17. ~~Impose the penalty authorized by § 16.1-285.1; or~~

595 ~~18. Impose the penalty authorized by § 16.1-278.9.~~

596 § 16.1-278.8. (Delayed effective date) Delinquent juveniles.

597 If a juvenile is found to be delinquent, except where such finding involves a refusal to take a blood
598 or breath test in violation of § 18.2-268.2 or a similar ordinance, the family court or the circuit court
599 may make any of the following orders of disposition for his supervision, care and rehabilitation:

600 1. Enter an order pursuant to the provisions of § 16.1-278;

601 2. Permit the juvenile to remain with his parent, subject to such conditions and limitations as the
602 court may order with respect to the juvenile and his parent;

603 3. Order the parent of a juvenile living with him to participate in such programs, cooperate in such
604 treatment or be subject to such conditions and limitations as the court may order and as are designed for
605 the rehabilitation of the juvenile and his parent;

606 4. Defer disposition for a period of time not to exceed twelve months, after which time the charge
607 may be dismissed by the judge if the juvenile exhibits good behavior during the period for which
608 disposition is deferred;

609 4a. *Defer disposition and place the juvenile in the temporary custody of the Department to attend a*
610 *Boot Camp Program established pursuant to § 66-13 provided the juvenile (i) is otherwise eligible for*
611 *commitment to the Department, (ii) has not previously been adjudicated delinquent or found guilty of an*
612 *offense which, if committed by an adult, would be an act of violence as defined in § 19.2-297.1 and (iii)*
613 *has not previously been committed to the Department or attended a Boot Camp Program. Upon the*

juvenile's withdrawal, removal or refusal to comply with the terms and conditions of participation in the program, he shall be brought before the court for a hearing at which the court may impose any other disposition as authorized by this section which could have been imposed at the time the juvenile was placed in the custody of the Department;

5. Without entering a judgment of guilty and with the consent of the juvenile and his attorney, defer disposition of the delinquency charge for a period not to exceed twelve months and place the juvenile on probation under such conditions and limitations as the court may prescribe. Upon fulfillment of the terms and conditions, the court shall discharge the juvenile and dismiss the proceedings against him. Discharge and dismissal under these provisions shall be without adjudication of guilt;

6. Order the parent of a juvenile with whom the juvenile does not reside to participate in such programs, cooperate in such treatment or be subject to such conditions and limitations as the court may order and as are designed for the rehabilitation of the juvenile where the court determines this participation to be in the best interest of the juvenile and other parties concerned and where the court determines it reasonable to expect the parent to be able to comply with such order;

7. Place the juvenile on probation under such conditions and limitations as the court may prescribe, which may include, but are not limited to, compliance with any alternative education plan prepared pursuant to § 22.1-257;

8. Impose a fine not to exceed \$500 upon such juvenile;

9. Suspend the motor vehicle and driver's license of such juvenile or impose a curfew on the juvenile as to the hours during which he may operate a motor vehicle. Any juvenile whose driver's license is suspended may be referred for an assessment and subsequent referral to appropriate services, upon such terms and conditions as the court may order. The court, in its discretion and upon a demonstration of hardship, may authorize the use of a restricted permit to operate a motor vehicle by any juvenile who enters such program for any of the purposes set forth in subsection E of § 18.2-271.1 or for travel to and from school. The restricted permit shall be issued in accordance with the provisions of such subsection. However, only an abstract of the court order which identifies the juvenile and the conditions under which the restricted license is to be issued shall be sent to the Department of Motor Vehicles.

If a curfew is imposed, the juvenile shall surrender his driver's license, which shall be held in the physical custody of the court during any period of curfew restriction. The court shall send an abstract of any order issued under the provisions of this section to the Department of Motor Vehicles, which shall preserve a record thereof. Notwithstanding the provisions of Article 12 (§ 16.1-299 et seq.) of this chapter or the provisions of Title 46.2, this record shall be available only to all law-enforcement officers, attorneys for the Commonwealth and courts. A copy of the court order, upon which shall be noted all curfew restrictions, shall be provided to the juvenile and shall contain such information regarding the juvenile as is reasonably necessary to identify him. The juvenile may operate a motor vehicle under the court order in accordance with its terms.

Any juvenile who operates a motor vehicle in violation of any restrictions imposed pursuant to this section shall be guilty of a violation of § 46.2-301.

The Department of Motor Vehicles shall refuse to issue a driver's license to any juvenile denied a driver's license until such time as is stipulated in the court order or until notification by the court of withdrawal of the order imposing the curfew;

10. Require the juvenile to make restitution or reparation to the aggrieved party or parties for actual damages or loss caused by the offense for which the juvenile was found to be delinquent;

11. Require the juvenile to participate in a public service project under such conditions as the court prescribes;

12. In case of traffic violations, impose only those penalties which are authorized to be imposed on adults for such violations. However, for those violations punishable by confinement if committed by an adult, confinement shall be imposed only as authorized by this title;

13. Transfer legal custody to any of the following:

a. A relative or other individual who, after study, is found by the court to be qualified to receive and care for the juvenile;

b. A child welfare agency, private organization or facility which is licensed or otherwise authorized by law to receive and provide care for such juvenile. The court shall not transfer legal custody of a delinquent juvenile to an agency, organization or facility outside of the Commonwealth without the approval of the Director; or

c. The local board of public welfare or social services of the county or city in which the court has jurisdiction or, at the discretion of the court, to the local board of the county or city in which the juvenile has residence if other than the county or city in which the court has jurisdiction. The board shall accept the juvenile for care and custody, provided that it has been given reasonable notice of the pendency of the case and an opportunity to be heard. However, in an emergency in the county or city in which the court has jurisdiction, such local board may be required to temporarily accept a juvenile for a

675 period not to exceed fourteen days without prior notice or an opportunity to be heard if the judge
676 entering the placement order describes the emergency and the need for such temporary placement in the
677 order. Nothing in this subdivision shall prohibit the commitment of a juvenile to any local board of
678 public welfare or social services in the Commonwealth when such local board consents to the
679 commitment. The board to which the juvenile is committed shall have the final authority to determine
680 the appropriate placement for the juvenile. Any order authorizing removal from the home and
681 transferring legal custody of a juvenile to a local board of public welfare or social services as provided
682 in this subdivision shall be entered only upon a finding by the court that reasonable efforts have been
683 made to prevent removal and that continued placement in the home would be contrary to the welfare of
684 the juvenile, and the order shall so state;

685 14. Commit the juvenile to the Department of Youth and Family Services, but only if he is older
686 than ten years of age and the current offense is (i) an offense which would be a felony if committed by
687 an adult or (ii) an offense which would be a Class 1 misdemeanor if committed by an adult and the
688 juvenile has previously been found to be delinquent based on an offense which would be either a felony
689 or Class 1 misdemeanor if committed by an adult;

690 *Prior to committing any juvenile pursuant to this subdivision, the court shall consider the nature of*
691 *the present offense and the impact on the victim, the nature of the juvenile's prior delinquency record*
692 *and record of other contacts with the court, the nature of past treatment efforts and the juvenile's*
693 *response to them, and any aggravating or mitigating circumstances.*

694 *In ordering commitment, the court may specify a minimum period of commitment not to exceed the*
695 *juvenile's twenty-first birthday, and the juvenile shall not be released at a time earlier than that*
696 *specified by the court, unless a petition for early release is approved by the committing court based*
697 *upon good cause shown. The court which commits the juvenile to the Department for such minimum*
698 *period shall have continuing jurisdiction over the juvenile for the duration of that minimum period of*
699 *commitment.*

700 *In the event the court does not specify a minimum period of commitment, or when any minimum*
701 *period is completed, the commitment shall be for an indeterminate period, and the Department shall*
702 *have the authority to discharge any juvenile from its custody in accordance with policies and procedures*
703 *established by the State Board and with other provisions of law. In no event shall any committed*
704 *juvenile be held or detained after he has attained the age of twenty one years;*

705 15. Impose the penalty authorized by § 16.1-284;

706 16. Impose the penalty authorized by § 16.1-284.1; or

707 17. ~~Impose the penalty authorized by § 16.1-285.1; or~~

708 18. Impose the penalty authorized by § 16.1-278.9.

709 § 16.1-284. When adult sentenced for juvenile offense.

710 ~~Until June 30, 1986, if a child fifteen years of age or older is charged with an offense which if~~
711 ~~committed by an adult would be a felony and the court after receipt of a social history compiled~~
712 ~~pursuant to § 16.1-273 for this case or a prior case which was adjudicated within twelve months from~~
713 ~~the adjudication in this case finds that (i) such child is not, in the opinion of the court, amenable to~~
714 ~~treatment or rehabilitation as a juvenile through available facilities, considering such factors as the nature~~
715 ~~of the present offense or the nature of the child's prior delinquency record, the nature of the past~~
716 ~~treatment efforts and the nature of the child's response to past treatment efforts and (ii) the interests of~~
717 ~~the community require that the child be placed under legal restraint or discipline, then the court, in such~~
718 ~~cases, may impose the penalties which are authorized to be imposed on adults for such violations, not to~~
719 ~~exceed twelve months in jail for a single offense or multiple offenses and subject to the provisions of~~
720 ~~§ 16.1-249 B (i), (ii) and (iii). After June 30, 1986, such penalties may be imposed only in the case of~~
721 ~~an When the juvenile court sentences an adult who has committed, before attaining the age of eighteen,~~
722 ~~an offense which would be a crime if committed by an adult, the court may impose the penalties which~~
723 ~~are authorized to be imposed on adults for such violations, not to exceed the punishment for a Class 1~~
724 ~~misdemeanor for a single offense or multiple offenses.~~

725 § 16.1-284.1. Placement in secure local facility.

726 A. If a ~~child~~ juvenile fourteen years of age or older is found to have committed an offense which if
727 committed by an adult would be punishable by confinement in a state or local correctional facility as
728 defined in § 53.1-1, and the court determines (i) ~~after receipt of a social history compiled pursuant to~~
729 ~~§ 16.1-273~~ that the ~~child~~ juvenile has not previously been found guilty of a delinquent act ~~within the~~
730 ~~preceding twelve months,~~ (ii) that the interests of the child and the community require that the child be
731 placed under legal restraint or discipline, and (iii) that other placements authorized by this title will not
732 serve the best interests of the child, then the court may order the ~~child~~ juvenile confined in a detention
733 home or other secure facility for juveniles for a period not to exceed thirty calendar days from the date
734 the order is entered, inclusive of time served in a detention home or other secure facility, for a single
735 offense or multiple offenses.

736 B. If a ~~child~~ juvenile fourteen years of age or older is found to have committed an offense which if

committed by an adult would be punishable by confinement in a state or local correctional facility as defined in § 53.1-1, and the court determines (i) after receipt of a social history compiled within the immediately preceding twelve months pursuant to § 16.1-273 that the child juvenile has been previously adjudged a delinquent within the immediately preceding twelve months and has failed to respond to past treatment efforts; (ii) that the child is amenable to continued treatment efforts in the community; and (iii) the interests of the community and the child require that the child be placed under legal restraint or discipline; based on the nature of the present offense, the nature of the child's prior delinquency record; and the nature of the past treatment efforts, then the court may order the child juvenile committed to the Department, but suspend such commitment and order the child juvenile confined in a detention home or other secure facility for juveniles for a period not to exceed six months, inclusive of time served in detention while awaiting disposition, for a single offense or for multiple offenses. In suspending the commitment to the Department as provided for in this subsection, the court shall specify conditions for the child's juvenile's participation in one or more community treatment programs as may be appropriate for the child's juvenile's rehabilitation.

C. During any period of confinement ordered pursuant to this section, the court shall conduct a mandatory review hearing at least once during each thirty days of the period of confinement and at such other times upon the request of the child's probation officer, for good cause shown. If it appears at such hearing that the purpose of the order of confinement has been achieved, the child shall be released on probation for such period and under such conditions as the court may specify and remain subject to the order suspending commitment to the State Department of Youth and Family Services. If the court determines at the first or any subsequent review hearing that the child is consistently failing to comply with the conditions specified by the court or the policies and program requirements of the facility, then the court shall order that the child either be (i) released under such conditions as the court may specify subject to the suspended commitment, or (ii) committed to the State Department of Youth and Family Services pursuant to § 16.1-291. If the court determines at the first or any subsequent review hearing that the child is not actively involved in any community treatment program through no fault of his own, then the court shall order that the child be released under such conditions as the court may specify subject to the suspended commitment.

D. A child juvenile may only be ordered confined pursuant to this section to a facility in compliance with standards established by the State Board for such placements; standards for these facilities shall have regard for reasonable utilization of these facilities and the requirements of § 16.1-309.4, consistent with the intent of this section.

E D. The Department of Youth and Family Services shall assist the localities or combinations thereof in implementing this section consistent with the statewide plan required by § 16.1-309.4 and pursuant to standards promulgated by the State Board, in order to ensure the availability and reasonable access of each court to the facilities the use of which is authorized by this section.

§ 16.1-285. Duration of commitments.

Except as provided in for juveniles committed pursuant to former § 16.1-285.1 and as may be otherwise provided for delinquent juveniles, all commitments under this law shall be for an indeterminate period having regard to the welfare of the child juvenile and interests of the public, but no child juvenile committed hereunder shall be held or detained after such child juvenile has attained the age of twenty-one years; however, any child juvenile who is committed under this law as an abused or neglected child or a child in need of services shall have the right upon request to be released from such commitment at the age of eighteen years. The Department shall have the authority to discharge any child juvenile from its custody in accordance with policies and procedures established by the State Board and with other provisions of law.

§ 16.1-290. Support of committed juvenile; support from estate of juvenile.

A. Whenever legal custody of a juvenile is vested by the court in someone other than his parents, or whenever a juvenile is placed in temporary shelter care regardless of whether or not legal custody is retained by his parents, is placed in temporary custody of the Department pursuant to subdivision 4a of § 16.1-278.8 or is committed to a secure local facility, after due notice to the parents or other persons legally obligated to care for and support the juvenile, and after an investigation and hearing, the court shall order and decree that the parent or other legally obligated person shall pay, in such a manner and amount commensurate with ability to pay, as the court may direct, a reasonable sum commensurate with the ability to pay, that will cover in whole or in all or part of the cost of support and treatment of the juvenile after the decree is entered. If the parent or other legally obligated person willfully fails or refuses to pay such sum, the court may proceed against him for contempt, or the order may be filed and shall have the effect of a civil judgment.

If a juvenile or his family is receiving benefits from any state or federal agency, the court shall forward notice of the commitment and the terms of any reimbursement ordered pursuant to this subsection to the agency providing the benefits.

798 B. If a juvenile has an estate in the hands of a guardian or trustee, the guardian or trustee may be
799 required to pay for his education and maintenance so long as there may be funds for that purpose.

800 C. Whenever a juvenile is placed in foster care by the court, the court shall order and decree that the
801 parent or other legally obligated person shall pay the Department of Social Services pursuant to
802 §§ 20-108.1, 20-108.2, 63.1-204.2, and 63.1-251.3.

803 § 16.1-293. Supervision of juvenile during commitment and on parole; placing juvenile in halfway
804 house.

805 At such time as the court commits a ~~child~~ child to the Department, it shall determine whether the
806 juvenile and domestic relations district court service unit or the local department of public welfare or
807 social services shall maintain contact with the ~~child~~ child during the ~~child's~~ child's commitment. Except
808 in exceptional cases, the court shall designate the local department to maintain contact with the ~~child~~
809 juvenile during commitment only when the ~~child~~ juvenile was in the custody of the local department
810 immediately prior to his commitment to the Department. The Department shall return a ~~child~~ juvenile to
811 the previously designated local supervising agency and shall consult with the local supervising agency
812 two weeks prior to such release on parole supervision concerning return of the ~~child~~ juvenile to the
813 local agency, unless there is an agreement for an earlier release. However, when any ~~child~~ juvenile is
814 committed to the Department by a circuit court, the ~~child~~ juvenile may, upon request of the judge, be
815 returned to the committing court by the Department.

816 *The local supervising agency shall be responsible for the development of a reenrollment plan, in*
817 *accordance with § 22.1-17.1, for each child of compulsory school age or of age of eligibility for special*
818 *education with the assistance of representatives from the Department of Correctional Education and the*
819 *local school division and with the juvenile correctional center counselor. Education information shall be*
820 *shared by all parties at the point of commitment and prior to the juvenile's scheduled discharge, in*
821 *accordance with § 22.1-289. Prior to the juvenile's scheduled discharge, the local school division*
822 *superintendent where the juvenile will be enrolled shall identify the juvenile's education placement,*
823 *which may include alternative education in accordance with § 22.1-277.1, and the reenrollment plan*
824 *shall be finalized.*

825 The local supervising agency shall furnish the ~~child~~ juvenile a written statement of the conditions of
826 his parole and shall instruct him regarding the same. *The conditions of the reenrollment plan may be*
827 *included in the conditions of parole.* Violations of parole shall be heard by the court pursuant to
828 § 16.1-291. The director of the supervising agency may approve termination of parole supervision.

829 In the event it is determined by the juvenile and domestic relations district court that a ~~child~~ juvenile
830 may benefit from placement in the halfway house program operated by the Department, the ~~child~~
831 juvenile may be referred for care and treatment to a halfway house. ~~Children~~ Juveniles so placed in a
832 halfway house shall remain in parole status and cannot be transferred or otherwise placed in another
833 institutional setting or institutional placement operated by the Department except as elsewhere provided
834 by law for those ~~children~~ juveniles who have violated their parole status.

835 § 16.1-293. (Delayed effective date) Supervision of juvenile during commitment and on parole;
836 placing juvenile in halfway house.

837 At such time as the court commits a ~~child~~ juvenile to the Department, it shall determine whether the
838 family court service unit or the local department of public welfare or social services shall maintain
839 contact with the ~~child~~ juvenile during the ~~child's~~ juvenile's commitment. Except in exceptional cases, the
840 court shall designate the local department to maintain contact with the ~~child~~ juvenile during
841 commitment only when the ~~child~~ juvenile was in the custody of the local department immediately prior
842 to his commitment to the Department. The Department shall return a ~~child~~ juvenile to the previously
843 designated local supervising agency and shall consult with the local supervising agency two weeks prior
844 to such release on parole supervision concerning return of the ~~child~~ juvenile to the local agency, unless
845 there is an agreement for an earlier release. However, when any ~~child~~ juvenile is committed to the
846 Department by a circuit court, the ~~child~~ juvenile may, upon request of the judge, be returned to the
847 committing court by the Department.

848 *The local supervising agency shall be responsible for the development of a reenrollment plan, in*
849 *accordance with § 22.1-17.1, for each child of compulsory school age or of age of eligibility for special*
850 *education with the assistance of representatives from the Department of Correctional Education and the*
851 *local school division and with the juvenile correctional center counselor. Education information shall be*
852 *shared by all parties at the point of commitment and prior to the juvenile's scheduled discharge, in*
853 *accordance with § 22.1-289. Prior to the juvenile's scheduled discharge, the local school division*
854 *superintendent where the juvenile will be enrolled shall identify the juvenile's education placement,*
855 *which may include alternative education in accordance with § 22.1-277.1, and the reenrollment plan*
856 *shall be finalized.*

857 The local supervising agency shall furnish the ~~child~~ juvenile a written statement of the conditions of
858 his parole and shall instruct him regarding the same. Violations of parole shall be heard by the court
859 pursuant to § 16.1-291. *The conditions of the reenrollment plan may be included in the conditions of*

parole. The director of the supervising agency may approve termination of parole supervision.

In the event it is determined by the family court that a ~~child~~ juvenile may benefit from placement in the halfway house program operated by the Department, the ~~child~~ juvenile may be referred for care and treatment to a halfway house. ~~Children~~ Juveniles so placed in a halfway house shall remain in parole status and cannot be transferred or otherwise placed in another institutional setting or institutional placement operated by the Department except as elsewhere provided by law for those ~~children~~ juveniles who have violated their parole status.

§ 19.2-311. Indeterminate commitment to Department of Corrections in certain cases; duration and character of commitment; concurrence by Department.

A. The judge, after a finding of guilt, when fixing punishment in those cases specifically enumerated in subsection B of this section, may, in his discretion, in lieu of imposing any other penalty provided by law and, with consent of the person convicted, commit such person for a period of four years, which commitment shall be indeterminate in character. Subject to the provisions of subsection C hereof, such persons shall be committed to the Department of Corrections for initial confinement for a period not to exceed three years. Such confinement shall be followed by at least one year of supervisory parole, conditioned on good behavior, but such parole period shall not, in any case, continue beyond the four-year period. The sentence of indeterminate commitment and eligibility for continuous evaluation and parole under § 19.2-313 shall remain in effect but eligibility for use of programs and facilities specified in § 53.1-64 shall lapse if such person (i) voluntarily withdraws from the youthful offender program, (ii) exhibits intractable behavior as defined in § 53.1-66, or (iii) is convicted of a second criminal offense which is a felony. A sentence imposed for any second criminal offense shall run consecutively with the indeterminate sentence.

B. The provisions of subsection A of this section shall be applicable to first convictions in which the person convicted:

1. Committed the offense of which convicted after becoming eighteen but before becoming twenty-one years of age; ~~or was a juvenile certified for trial as an adult under the provisions of § 16.1-269.6 or § 16.1-272;~~

2. Was convicted of an offense which is either (i) a felony not punishable as a Class 1 felony; or (ii) a misdemeanor involving injury to a person or damage to or destruction of property; and

3. Is considered by the judge to be capable of returning to society as a productive citizen following a reasonable amount of rehabilitation.

C. Subsequent to a finding of guilt and prior to fixing punishment, the Department of Corrections and the Parole Board shall, concurrently with the evaluation required by § 19.2-316, review all aspects of the case to determine whether (i) such indeterminate sentence of commitment is in the best interest of the Commonwealth and of the person convicted and (ii) facilities are available for the confinement of such person. After the review such person shall be again brought before the court, which shall review the findings of the Department and the Parole Board. The court may impose a sentence as authorized in subsection A, or any other penalty provided by law.

§ 66-13. Authority of Department as to juveniles committed to it; establishment of facilities; arrangements for temporary care.

The Department is authorized and empowered to receive ~~children~~ juveniles committed to it by the courts of the Commonwealth pursuant to § 16.1-278.8. The Department shall establish, staff and maintain facilities for the rehabilitation, training and confinement of such ~~children~~ juveniles. The Department may make arrangements with satisfactory persons, institutions or agencies, or with cities or counties maintaining places of detention for ~~children~~ juveniles, for the temporary care of such ~~children~~ juveniles.

The Department shall establish, or contract with private entities, localities or commissions, to establish juvenile boot camps. The Board shall prescribe standards for the development, implementation and operation of the boot camps with highly structured components including, but not limited to, military style drill and ceremony, physical labor, education and rigid discipline.

§ 66-24. Community group homes and other residential facilities for certain juveniles; personnel.

The Department is authorized to establish and maintain such a system of community group homes or other residential care facilities as the Department may from time to time acquire, construct, *contract for* or rent for the care of ~~children~~ juveniles in direct state care, pending development of more permanent placement plans. Such placement plans shall consider adequate care and treatment, and suitable education, training and employment for such ~~children~~ juveniles, as is appropriate. The Department is further authorized to employ necessary personnel for such facilities *or to contract with private entities for their operation*. The Board shall adopt such regulations for the operation of such facilities as it may deem appropriate.

2. That § 16.1-285.1 of the Code of Virginia is repealed.

3. That beginning July 1, 1996, the magistrate training program established by Committee on

921 District Courts pursuant to § 19.2-38 shall include a component addressing the issuance of
922 warrants and detention orders in juvenile cases.